

THIRD AMENDMENT TO EMPLOYMENT AGREEMENT AND NOTICE OF APPOINTMENT FOR HEAD COACH

This Third Amendment to Employment Agreement and Notice of Appointment for Head Coach is made between Oregon State University ("University") and Wayne Tinkle ("COACH"). This Third Amendment is effective the date of last signature and amends the Employment Agreement and Notice of Appointment for Head Coach between the parties dated July 31, 2014 by last signature, as amended by the Amendment to Employment Agreement and Notice of Appointment for Head Coach between the parties dated September 18, 2014 by last signature, and as amended by the Second Amendment to Employment Agreement and Notice of Appointment for Head Coach between the parties dated June 3, 2016 by last signature ("Agreement").

A. Section 1e is hereby added to the Agreement as follows:

"e. (1) Comply with NCAA, Conference Rules. COACH shall comply with rules, regulations, and advisory opinions of the NCAA and of the Conference, as presently in effect or as amended from time to time during the Term of the Agreement. COACH acknowledges that COACH has reviewed the conduct requirements for athletics personnel in NCAA Bylaw 11.1 and agrees to comply. COACH is responsible for engaging in best reasonable efforts designed to ensure that all of the assistant coaches, administrators, and any other personnel subject to COACH's control or supervision comply with the above policies, rules, and regulations.

(2) Comply with Policies. COACH shall comply with (i) all applicable policies and procedures as reasonably set forth by the Director (including without limitation the recruiting of prospective student athletes and the eligibility of current student athletes), and (ii) all applicable University policies and standards.

(3) Report to Title IX Coordinator. COACH shall timely report to the University's Title IX Coordinator any alleged violations of the University's Sexual Misconduct and Discrimination Policy (including but not limited to, sexual misconduct, sexual harassment, sexual assault, sexual exploitation, intimate partner violence, and stalking) of which COACH becomes aware that involve any student, faculty, or staff, or that occurred during a University sponsored activity or event, or that occurred on University property. In addition, any emergency situation should first immediately be reported to 911 or law enforcement.

(4) Not Condone a Violation of NCAA Legislation, Conference Rules, University Policy, Oregon or Federal Law Including Criminal Law. COACH shall not condone a violation of NCAA legislation, conference rules, University policy, Oregon or federal law including criminal law (any of which is a "Violation") by a member of the Team's coaching staff or any person under COACH's supervision and direction, including a student athlete. For purposes of this Section "condone" means: (a) COACH's actual knowledge of and complicity in a Violation by a member of the Team's coaching staff or any person under COACH's supervision and direction, including a student athlete; or (b) COACH's failure to report a known Violation by a member of the Team's coaching staff or any person under COACH's supervision and direction, including a

student athlete, to the Director within a reasonable amount of time. For purposes of this Section a “known Violation” means a Violation the COACH becomes aware of, or has reasonable cause to believe, is taking place or may have taken place.

(5) Responsibility to Cooperate. COACH agrees to cooperate fully with any investigation by the University, Conference, or the NCAA. COACH’s obligation to cooperate survives termination or expiration of this Agreement. Such cooperation includes, without limitation, cooperation with any internal University investigation, with NCAA enforcement staff, the NCAA Complex Case Unit, the NCAA Committee on Infractions, the NCAA Independent College Sports Adjudication Panel and the NCAA Infractions Appeals Committee in order to further the objectives of the NCAA, its infractions program, and its independent alternative resolution program. As set forth in NCAA Bylaw 19.2.3, “full cooperation” includes, but is not limited to:

- (i) Affirmatively reporting instances of noncompliance to the NCAA via standard University process (e.g. reporting to Director or Compliance Office) in a timely manner and assisting in developing full information to determine whether a possible violation has occurred and the details thereof;
- (ii) Timely participation in interviews and providing complete and truthful responses;
- (iii) Making a full and complete disclosure of relevant information, including timely production of materials or information requested, and in the format requested;
- (iv) Disclosing and providing access to all electronic devices used in any way for business purposes;
- (v) Providing access to all social media, messaging and other applications that are or may be relevant to the investigation; and
- (vi) Preserving the integrity of an investigation and abiding by all applicable confidentiality rules and instructions.”

B. Section 2 is hereby replaced in its entirety with the following:

“a. COACH’s employment under this Agreement is for a fixed term period beginning May 19, 2014 and ending June 30, 2023 (the “Term”). The Years of this Agreement are defined as follows:

Year 1	May 19, 2014 - June 30, 2015
Year 2	July 1, 2015 - June 30, 2016
Year 3	July 1, 2016 - June 30, 2017
Year 4	July 1, 2017 - June 30, 2018
Year 5	July 1, 2018 - June 30, 2019
Year 6	July 1, 2019 - June 30, 2020

Year 7	July 1, 2020 – June 30, 2021
Year 8	July 1, 2021 – June 30, 2022
Year 9	July 1, 2022 – June 30, 2023

This Agreement is subject to the rules, standards and policies of the University including all provisions that apply to fixed-term appointments, except as provided in this Agreement.

- b. If at any time during the Term the Team participates in the NCAA Tournament, Year 10 (July 1, 2023 – June 30, 2024) will be added to this Agreement by written amendment and the Term will end June 30, 2024. Within a reasonable time following completion of the Team's participation in the NCAA Tournament, COACH and Director will have a 30 day period to negotiate the terms and conditions that will apply to Year 10 (including without limitation the Annual Base Salary and Media/Public Relations Commitment). If COACH and Director are unable to agree on all the terms and conditions for Year 10 within the 30 day period, then the same terms and conditions of this Agreement that apply for Contact Year 9 will apply to Year 10 (except for this Section 2b)."

- c. Section 3 is hereby replaced in its entirety with the following:

"Except for Year 1, which is calculated for a period of more than 13 months, the annual salary rate shall be calculated for 12 months at 1.0 FTE and shall be paid by University to COACH on a monthly basis, consistent with University payroll practices for all other head coaches, throughout each Year:

Year 1	\$300,000
Year 2	\$320,004
Year 3	\$578,004
Year 4	\$612,000
Year 5	\$646,008
Year 6	\$680,004
Year 7	\$714,000
Year 8	\$748,008
Year 9	\$782,004"

- d. Section 4 is hereby replaced in its entirety with the following:

"University, either through third parties or on its own, markets radio and television coaches shows and similar programming. University may also have obligations under agreements with suppliers of athletic shoes and apparel. COACH is obligated as part of his duties to participate in this programming and to participate in other media and public relations activities as reasonably assigned by the Athletic Director, including but not limited to speaking engagements and public appearances. For his participation in these activities, University guarantees COACH will receive the annual amount of compensation set forth below. Except for Year 1, which is calculated for a period of more than 13 months, the annual bonus rate shall be calculated for 12 months at 1.0 FTE and shall be

paid by University to COACH on a monthly basis, consistent with University payroll practices for all other head coaches, throughout each Year:

Year 1	\$ 500,004
Year 2	\$ 580,008
Year 3	\$1,122,000
Year 4	\$1,188,000
Year 5	\$1,254,000
Year 6	\$1,320,000
Year 7	\$1,386,000
Year 8	\$1,452,000
Year 9	\$1,518,000"

E. Section 6 is hereby replaced in its entirety with the following:

"a. University agrees to pay to COACH the following specified amounts in any year in which the Team achieves the following and COACH is coach of the Team at the time of the event:

- (1) For each year in which the Team has a winning record (winning more than 50% of the regular season Pac-12 games) in regular season Pac-12 Conference play University will pay COACH \$25,000 as additional compensation.
- (2) For each year in which the Team is the Pac-12 regular season champion (including ties) University will pay COACH \$100,000 as additional compensation.
- (3) For each year in which the Team participates in the NCAA Tournament University will pay COACH \$150,000 as additional compensation.
- (4) For each game the Team wins in the NCAA Tournament University will pay COACH \$100,000 as additional compensation.
- (5) For each year in which the Team participates in the NIT University will pay COACH \$30,000 as additional compensation.
- (6) For each year in which the Team participates in the NIT Sweet Sixteen University will pay COACH \$30,000 as additional compensation.
- (7) For each year in which the Team participates in the NIT Final Four University will pay COACH \$30,000 as additional compensation.
- (8) For each year in which the Team wins the NIT Championship University will pay COACH \$30,000 as additional compensation.

- b. University agrees to pay to COACH the following specified amounts in any year in which COACH receives the following and COACH is coach of the Team at the time of the event:
 - (1) Pac-12 Conference COACH of the Year - \$25,000
 - (2) National COACH of the Year - \$50,000
- c. The amounts in Section 6(a) and 6(b) are cumulative. Payment will be made no later than June 30 of the year in which COACH is entitled to payment under this Section 6.”
- F. In Section 7(b)(A)(2), references to “June 30, 2022” are hereby replaced with “the end of the Term”.
- G. Section 10b is hereby replaced in its entirety with the following:

“Coach shall provide a report to the Director at least once annually of all athletically related income or benefits from sources outside the University, including, but not limited to, income from annuities, sports camps, housing benefits, complimentary ticket sales, television and radio programs, and endorsement or consultation contracts with athletic shoe, apparel, or equipment manufacturers. Reports shall be made at the direction of, and on forms provided by the Director or designee. The Director or designee shall forward reports to the President and a copy shall be retained in the faculty personnel file of the Coach. Coach agrees that the approval of all athletically related income and benefits shall be consistent with the University’s policy related to outside income and benefits applicable to all full-time employees.”
- H. Section 14 is hereby renamed Termination – Other Events, the existing paragraph is renumbered 14a and Section 14b is added as follows:

“b. In the event the President of the University directs discontinuation of the Team’s sport, University may terminate COACH’s employment under this Agreement by giving 60 days written notice to COACH, such termination to become effective no earlier than 60 days after University’s delivery of such written notice. In the event University terminates COACH’s employment under this Agreement for discontinuation of the Team’s sport prior to the end of the Agreement, all obligations of University to make further payments and to provide other consideration under this Agreement shall cease as of the end of the month in which such termination occurs, provided that COACH will be entitled to earned but unpaid compensation and reimbursement for previously incurred and approved expenses. University shall not be liable to COACH for any loss of collateral business opportunities or any other benefits, perquisites or income.”
- I. Section 15(c) is hereby replaced in its entirety with the following:

“In the event COACH terminates this Agreement, COACH shall pay, or cause to be paid by his subsequent employer, to University, as liquidated damages, as follows:

If the notice of termination is effective during Year 1	\$ 800,000
If the notice of termination is effective during Year 2	\$ 900,000
If the notice of termination is effective during Year 3	\$3,000,000
If the notice of termination is effective during Year 4	\$1,500,000
If the notice of termination is effective during Year 5	\$1,000,000
If the notice of termination is effective during Year 6	\$ 750,000
If the notice of termination is effective during Year 7	\$ 750,000
If the notice of termination is effective during Year 8	\$ 750,000
If the notice of termination is effective during the Team's basketball season in Year 9	\$ 750,000, prorated by the number of days passed in Year 9
If the notice of termination is effective after the Team's basketball season in Year 9	\$0

Payment is due 60 days after the effective date of termination."

J. Section 27 is hereby added to the Agreement as follows:

"Tax Advice. University will not provide tax advice to COACH or COACH's beneficiary regarding the tax effects of this Agreement. University encourages COACH and COACH's beneficiary to consult with their own tax advisors concerning the federal, state, and local tax effects of this Agreement. This Agreement is intended to comply with the requirements of Sections 409A and 457(f) of the Internal Revenue Code and, to the maximum extent permitted by law, shall be administered, operated and construed consistent with this intent. Any reimbursements or in-kind benefits provided under this Agreement that are subject to Section 409A of the Internal Revenue Code shall be made or provided in accordance with the requirements of Section 409A of the Internal Revenue Code, including, where applicable, the requirements that (a) any reimbursement is for expenses incurred during COACH's life, but in no event later than the expiration of the term of this Agreement, (b) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during a taxable year may not affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year, (c) the reimbursement of an eligible expense will be made no later than the last day of the taxable year following the taxable year in which the expense is incurred, and (d) the right to reimbursement or in kind benefits is not subject to liquidation or exchange for another benefit. Solely to the extent necessary to comply with Section 409A, a termination of employment shall not be deemed to have occurred unless such termination is also a 'separation from service' within the meaning of Section 409A and for purposes of any such provision of this Agreement, references to a 'termination,' 'termination of employment,' or like terms shall mean 'separation from service.' For purposes of Section 409A, COACH's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments, and each such installment payment shall likewise be treated as a separate and distinct payment for purposes of Section 409A."

Except as amended by this Third Amendment to Employment Agreement and Notice of Appointment for Head Coach, all other provisions remain in full force and effect.

Agreed to:

OREGON STATE UNIVERSITY

DocuSigned by:
By: S. Scott Barnes 9/17/2019 | 13:54:29 PDT
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S. Scott Barnes, Vice President/Director of Athletics Date

DocuSigned by:
By: Susan Capalbo 9/17/2019 | 17:33:23 PDT
1E537B42281F47E...
Susan Capalbo, Senior Vice Provost
Appointing Authority Date

COACH
DocuSigned by:
By: Wayne Tinkle 9/17/2019 | 14:13:10 PDT
BFD070F81C58440...
Wayne Tinkle Date